

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CHARLES LEE GILLENWATER,

Plaintiff,

vs.

FEDERAL DEFENDERS OF
EASTERN WASHINGTON AND
IDAHO, FRANK CIKUTOVICH,
ROBERT FISCHER, ROGER
PEVEN, TERENCE RYAN,
ANDREA GEORGE, TIMOTHY
OHMS and CYNTHIA
IMBROGNO,

Defendants.

NO. CV-12-121-JPH

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING COMPLAINT

Magistrate Judge Hutton filed a Report and Recommendation on June 19, 2012, recommending Mr. Gillenwater's complaint be dismissed without prejudice as precluded by *Heck v. Humphrey*, 512 U.S. 477 (1994), and that such dismissal count as one under 28 U.S.C. § 1915(g). There being no objections, the court **ADOPTS** the Report and Recommendation. ECF No. 12. The complaint is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim upon which relief may be granted.

Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who brings three or more civil actions or appeals which are dismissed as frivolous or for failure to state a claim will be precluded from bringing any other civil action or appeal *in forma pauperis* "unless the prisoner is under imminent danger of serious physical injury." 28

ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING COMPLAINT -- 1

1 U.S.C. § 1915(g). Plaintiff is advised to read the new statutory provisions under 28
2 U.S.C. § 1915. This dismissal of Plaintiff's complaint may count as one of the three
3 dismissals allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to file
4 future claims.

5 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
6 Order, enter judgment, forward copies to Plaintiff at his last known address, and close
7 the file. The District Court Executive is further directed to forward a copy of this Order
8 to the Office of the Attorney General of Washington, Criminal Justice Division. The
9 Court certifies any appeal of this dismissal would not be taken in good faith.

10 **DATED** this 12th day of July, 2012.

11 *s/Lonny R. Suko*

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13 LONNY R. SUKO
14 UNITED STATES DISTRICT JUDGE
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